

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:20-cr-115

vs.

ANTWANE COCHRAN,

District Judge Michael J. Newman

Defendant.

ORDER: (1) FINDING DEFENDANT INCOMPETENT TO STAND TRIAL; (2) TRANSFERRING DEFENDANT TO THE CUSTODY OF THE UNITED STATES ATTORNEY GENERAL AND THE BUREAU OF PRISONS; (3) SETTING A STATUS CONFERENCE ON MARCH 3, 2022 AT 10:00 AM; AND (4) REQUIRING PROGRESS REPORTS FROM THE BUREAU OF PRISONS ON DEFENDANT’S TREATMENT TO BE SENT TO JUDGE NEWMAN’S CHAMBERS EVERY 30 DAYS FROM THE BEGINNING OF TREATMENT

This criminal case is before the Court on Defendant’s unopposed oral motion to be evaluated for competency to stand trial under 18 U.S.C. § 4241. Two psychologists evaluated, and reported on, Defendant’s competency to stand trial, and the Court held two competency hearings in this matter. Doc. Nos. 33, 38, 44. Defendant appeared at both hearings represented by counsel.

During Defendant’s first competency hearing on August 23, 2021, the Court admitted into evidence the report of Daniel L. Davis, Ph.D, a forensic psychologist from the American Board of Forensic Psychology, after the parties stipulated to his qualifications and the report’s admissibility. Doc. No. 38. In his report, Dr. Davis found, *inter alia*, that Defendant demonstrated a lack of competency to stand trial, and he recommended that Defendant be sent to the Bureau of Prisons for further evaluation. *Id.* at PageID 115–17. After the hearing, the Court ordered the Bureau of

Prisons to conduct this evaluation. Doc. No. 39. The Court set a second competency hearing after the Bureau of Prisons completed its evaluation.

During Defendant's second competency hearing, on January 13, 2022, the Court admitted into evidence a report from David M. Szyhowski, Psy.D., a forensic psychologist with the Bureau of Prisons. In his report, Dr. Szyhowski found Defendant incompetent to stand trial and recommended that he be hospitalized and treated under 18 U.S.C. § 4241(d). As with the first report, counsel for both parties agreed with Dr. Szyhowski's recommendations and stipulated to his qualifications and the report's admissibility.

Based on both reports, as well as Defendant's demeanor during both competency hearings, the Court finds by a preponderance of the evidence that Defendant is presently suffering from a mental disease or defect, rendering him mentally incompetent to stand trial. 18 U.S.C. § 4241(d). Specifically, he is unable to understand the nature and consequences of the proceedings against him or properly assist in his defense. 18 U.S.C. § 4241(d); *see also Drope v. Missouri*, 420 U.S. 162, 180 (1975) (finding that "evidence of a defendant's irrational behavior, his demeanor . . . and any prior medical opinion on competence to stand trial are all relevant" to determining competency). Accordingly, and with agreement from counsel for both parties, the Court **ORDERS** that:

- (1) Defendant be transferred to the custody of the United States Attorney General and the Bureau of Prisons for hospitalization and treatment for a period of **four months**, to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit this case to proceed;
- (2) This matter shall reconvene for a status conference **on March 3, 2022 at 10:00 AM**; and
- (3) The Bureau of Prisons **SHALL DELIVER** a report describing the progress of Defendant's treatment **every 30 days from the date that his treatment begins** as either a PDF file to **newman_chambers@ohsd.uscourts.gov** or as a hard copy report via First Class mail to the following address:

The Honorable Michael J. Newman
Walter H. Rice U.S. Courthouse
202 Second Street
Room 505
Dayton, OH 454402

Although the Court will not presently order Defendant to participate in his treatment, the Court strongly encourages Defendant to do so for his own well-being.

IT IS SO ORDERED.

January 19, 2022

/s Michael J. Newman
Hon. Michael J. Newman
United States District Judge